

SCHEDULE 1

Regulation 5

FIT AND PROPER PERSONS REQUIREMENT

1. For the purposes of section 7(4)(a) of the Act, the Regulator must take account of the following matters when assessing whether a person is fit and proper to act in a capacity mentioned in section 7(2) or (3) of the Act—

- (a) whether, in Northern Ireland, the person has—
 - (i) made any arrangement with the person's creditors;
 - (ii) petitioned the court for a bankruptcy order;
 - (iii) been served with a bankruptcy petition;
 - (iv) been adjudged bankrupt;
 - (v) been the subject of a bankruptcy restrictions order made under paragraph 1 of Schedule 2A(1) to the Insolvency Order (including an interim bankruptcy restrictions order made under paragraph 5 of that Schedule), or
 - (vi) offered a bankruptcy restrictions undertaking made under paragraph 7 of Schedule 2A to the Insolvency Order;
- (b) whether, in England and Wales, the person has—
 - (i) made any arrangement with the person's creditors;
 - (ii) applied to an adjudicator under section 263H(2) of the Insolvency Act for a bankruptcy order within the meaning given by section 381(2)(3) of the Insolvency Act;
 - (iii) been served with a bankruptcy petition within the meaning given by section 381(3) of the Insolvency Act;
 - (iv) been made bankrupt within the meaning given by section 381(1)(4) of the Insolvency Act;
 - (v) been the subject of a bankruptcy restrictions order made under paragraph 1 of Schedule 4A(5) to the Insolvency Act (including an interim bankruptcy restrictions order made under paragraph 5 of that Schedule), or
 - (vi) offered a bankruptcy restrictions undertaking made under paragraph 7 of Schedule 4A to the Insolvency Act;
- (c) whether, in Scotland, the person has—
 - (i) made any arrangement with the person's creditors;
 - (ii) made a debtor application to the Accountant in Bankruptcy for sequestration;
 - (iii) been served with a petition for sequestration;
 - (iv) been the subject of an award of sequestration in accordance with section 22 of the Bankruptcy Act, or
 - (v) been the subject of a bankruptcy restrictions order within the meaning given by section 155(1) of the Bankruptcy Act (including an interim bankruptcy restrictions order within the meaning given by section 160 of that Act);

(1) Schedule 2A was inserted by Schedule 5 to the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10))

(2) Section 263H was inserted by Schedule 18 to the Enterprise and Regulatory Reform Act 2013 (c. 24)

(3) Section 381(2) was amended by paragraph 52(4) of Schedule 19 to the Enterprise and Regulatory Reform Act 2013

(4) Section 381(1) was amended by paragraph 52(2) of Schedule 19 to the Enterprise and Regulatory Reform Act 2013

(5) Schedule 4A was inserted by Schedule 20 to the Enterprise Act 2002 (c. 40)

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- (d) whether the person has been a director⁽⁶⁾ or partner of, or otherwise concerned in the management of, a business that has gone into insolvency, liquidation or administration while the person was concerned with that business or within one year of their being so concerned;
- (e) whether—
 - (i) in Northern Ireland, the person has been convicted of any criminal offence, excluding convictions that are spent within the meaning of the Rehabilitation of Offenders (Northern Ireland) Order 1978⁽⁷⁾, or
 - (ii) in Great Britain, the person has been convicted of any criminal offence, excluding convictions that are spent within the meaning of the Rehabilitation of Offenders Act 1974⁽⁸⁾;
- (f) whether there has been a judgment against the person or the person has reached a settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a body corporate;
- (g) whether—
 - (i) in Northern Ireland, the person has been subject to a disqualification order under Article 3(1) of, or a disqualification undertaking under Article 4(1) of, the Company Directors Disqualification (Northern Ireland) Order 2002⁽⁹⁾, or
 - (ii) in Great Britain, the person has been subject to a disqualification order under section 1(1) of, or a disqualification undertaking under section 1A(1) of, the Company Directors Disqualification Act 1986⁽¹⁰⁾;
- (h) whether the person has contravened any of the requirements or standards of—
 - (i) a regulator, including the Regulator, or
 - (ii) the registrar of companies⁽¹¹⁾;
- (i) any information received from—
 - (i) a regulator, or
 - (ii) the registrar of companies;
- (j) the person’s conduct in relation to, or arising out of or in connection with, any work the person has carried out in one or more of the capacities specified in section 7(2) or (3) of the Act—
 - (i) in the 5 years before the date of the application for authorisation of the scheme, and
 - (ii) at any time since the date of the application for authorisation of the scheme;
- (k) whether—
 - (i) in Northern Ireland, the person has been prohibited from being a trustee of any trust, including any trust scheme within the meaning of Article 121(1) of the 1995 Order (interpretation of Part 2), under—
 - (aa) Article 3⁽¹²⁾ of the 1995 Order (prohibition orders), or

⁽⁶⁾ “Director” is defined in section 250 of the Companies Act 2006

⁽⁷⁾ S.I. 1978/1908 (N.I.27)

⁽⁸⁾ 1974 c. 53

⁽⁹⁾ S.I. 2002/3150 (N.I.4); Article 3(1) was amended by Article 4(3) of the Company Directors Disqualification (Amendment) Order (Northern Ireland) 2005 (S.I. 2005/1454 (N.I. 9))

⁽¹⁰⁾ 1986 c. 46. Section 1(1) was amended by section 5(1) of the Insolvency Act 2000 (c. 39) and section 204(3) of the Enterprise Act 2002 (c. 40). Section 1A was inserted by section 6(2) of the Insolvency Act 2000 and amended by paragraph 3 of Schedule 7 to the Small Business, Enterprise and Employment Act 2015 (c. 26)

⁽¹¹⁾ “Registrar of companies” is defined in section 1060(3) of the Companies Act 2006

⁽¹²⁾ Article 3 was substituted by Article 29 of the Pensions (Northern Ireland) Order 2005 and amended by paragraph 3 of Schedule 1 to the Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010 (c. 4 (N.I.))

- (bb) any other legislation, or
 - (ii) in Great Britain, the person has been prohibited from being a trustee of any trust, including any trust scheme within the meaning of section 124(1) of the Pensions Act 1995⁽¹³⁾ (interpretation of Part 1), under—
 - (aa) section 3 of the Pensions Act 1995⁽¹⁴⁾ (prohibition orders), or
 - (bb) any other legislation;
 - (l) whether—
 - (i) in Northern Ireland, the person has been disqualified from being a trustee of any trust, including any trust scheme within the meaning of Article 121(1) of the 1995 Order (interpretation of Part 2), under—
 - (aa) Article 29⁽¹⁵⁾ of the 1995 Order (persons disqualified from being trustees), or
 - (bb) any other legislation, or
 - (ii) in Great Britain, the person has been disqualified from being a trustee of any trust, including any trust scheme within the meaning of section 124(1) of the Pensions Act 1995, under—
 - (aa) section 29 of the Pensions Act 1995⁽¹⁶⁾ (persons disqualified for being trustees), or
 - (bb) any other legislation.
2. For the purposes of section 7(3)(b) of the Act, the Regulator may assess whether a person who exercises a core function is fit and proper to act in such a capacity.
3. For the purposes of section 7(4)(a) of the Act, the Regulator must take into account—
- (a) the knowledge and skills gained from a person’s significant experience as a trustee, in assessing whether the person is fit and proper to act in that capacity;
 - (b) whether a person has successfully completed the Regulator’s on-line learning program known as the Toolkit, or an equivalent learning program, in assessing whether the person is fit and proper to act in the capacity of a trustee of the scheme;
 - (c) the collective expertise and experience of persons acting together in the capacity of trustees, in assessing whether they are fit and proper to act in that capacity;
 - (d) a person’s relevant experience and professional competence, in assessing whether the person is fit and proper to act in the capacity of a scheme strategist;
 - (e) the collective expertise and experience of persons acting together in the capacity of a scheme strategist, in assessing whether they are fit and proper to act in that capacity.
- 4.—(1) In this Schedule—
- “arrangement” means a voluntary agreement entered into by an individual with their creditors;
- “the Bankruptcy Act” means the Bankruptcy (Scotland) Act 2016⁽¹⁷⁾;

⁽¹³⁾ 1995 c. 26

⁽¹⁴⁾ Section 3 was substituted by section 33 of the Pensions Act 2004 (c. 35) and amended by paragraph 22 of Schedule 2 to S.I. 2010/22

⁽¹⁵⁾ Article 29 was amended by paragraph 11 of Schedule 3 to the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I.1)), paragraph 39 of Schedule 10 and Schedule 11 to the Pensions (Northern Ireland) Order 2005, paragraph 5 of the Schedule to S.R. 2008 No. 94 and paragraph 16(2)(c) of the Schedule to S.R. 2016 No. 108

⁽¹⁶⁾ Section 29 was amended by paragraph 45 of Schedule 12 and Schedule 13 to the Pensions Act 2004, paragraph 6 of the Schedule to S.I. 2004/1941, paragraph 5 of Schedule 2 to S.I. 2006/1722, paragraph 155(4) of Schedule 1 to S.I. 2009/1941, paragraph 34(3) of Schedule 2 to S.I. 2012/2404 and paragraph 11(3) of Schedule 1 to S.I. 2016/481

⁽¹⁷⁾ 2016 asp 21

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“core function” includes a strategic, executive or management role carried out in respect of, or on behalf of, a person mentioned in section 7(2) or (3) of the Act;

“the Insolvency Act” means the Insolvency Act 1986⁽¹⁸⁾;

“the Insolvency Order” means the Insolvency (Northern Ireland) Order 1989⁽¹⁹⁾.

(2) In paragraph 1(a)—

“bankrupt”, “bankruptcy order”, “bankruptcy petition” have the meanings given in Article 9(1) of the Insolvency Order;

“the court” is defined in rule 0.2 of the Insolvency Rules (Northern Ireland) 1991⁽²⁰⁾;

“creditor” has the meaning given in Article 9(1) of the Insolvency Order.

(3) In paragraph 1(b)—

“adjudicator” has the meaning given by section 385(1)⁽²¹⁾ of the Insolvency Act;

“creditor” has the meaning given by section 383(1)⁽²²⁾ of the Insolvency Act.

(4) In paragraph 1(c)—

“the Accountant in Bankruptcy” has the meaning given by section 199(1) of the Bankruptcy Act;

“creditor” has the meaning given by section 383(1) of the Insolvency Act;

“debtor application” has the meaning given by section 228(1) of the Bankruptcy Act;

“sequestration” has the meaning given by section 1 of the Bankruptcy Act.

SCHEDULE 2

Regulation 6

FINANCIAL SUSTAINABILITY REQUIREMENT

PART 1

Matters which the Regulator must take into account

1. The Regulator must take account of the following matters in deciding whether it is satisfied, for the purposes of section 8(2)(a) of the Act (financial sustainability requirement), that the business strategy relating to a Master Trust scheme is sound—

- (a) the structure of the scheme and its target market, including any plans to acquire or merge with other schemes;
- (b) the objectives for the scheme and the strategy for achieving them, including delivery milestones;
- (c) the robustness and prudence of the assumptions in the scheme’s business plan about membership, contributions, income, and costs;
- (d) the scheme’s requirements for planned expenditure, its purpose, and how it will be funded;

⁽¹⁸⁾ 1986 c. 45

⁽¹⁹⁾ S.I. 1989/2405 (N.I.19)

⁽²⁰⁾ S.R. 1991 No. 364

⁽²¹⁾ The definition of “adjudicator” was inserted by paragraph 55(a) of Schedule 19 to the Enterprise and Regulatory Reform Act 2013

⁽²²⁾ Section 383(1) was amended by Schedule 16 to the Criminal Justice Act 1988 (c. 33) and paragraph 53 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013

- (e) the terms, security and affordability of loans and other funding provided to the scheme, and the identity of each associated lender;
- (f) information about the market in which the scheme operates or is to operate;
- (g) the experience and professional competence of the individuals involved in running the scheme;
- (h) any revisions to the business plan as a result of a significant change of information;
- (i) whether the scheme has a scheme funder which is not a participating employer in the scheme;
- (j) where regulation 28(1) does not apply to the scheme and the scheme has a scheme funder which is engaged in activities which do not relate directly to the scheme, the scheme's position in any corporate group and any associated impact on the scheme's financial sustainability;
- (k) where the scheme has no scheme funder, the scheme's strategy for meeting the costs mentioned in section 8(3) of the Act;
- (l) any provision made by the trustees and each scheme funder to fund contingent liabilities in respect of the scheme.

2. The Regulator must take account of the following matters in deciding whether it is satisfied, for the purposes of section 8(2)(b) of the Act, that a Master Trust scheme has sufficient financial resources to meet the costs mentioned in section 8(3)(a) of the Act—

- (a) the structure of the scheme and the business strategy relating to it;
- (b) the scheme's sources of income;
- (c) the estimated cost of setting up and running the scheme;
- (d) the trustees' strategy for meeting any shortfall between its income and the costs mentioned in section 8(3)(a) of the Act;
- (e) where the scheme has one or more scheme funders that is an employer, the financial position of each scheme funder that the Regulator considers relevant;
- (f) the security and enforceability of loans and other funding commitments provided to the trustees in respect of the scheme;
- (g) the scheme financing arrangements mentioned in the business plan and entered into between the trustees and each scheme funder that the Regulator considers relevant;
- (h) where the scheme has an arrangement with a service provider under which the service provider accepts the risk that its costs will exceed any fee paid to it, the provisions made to secure this service and any limitations on the service provider's liability for those costs;
- (i) any insurance held by the scheme or the scheme funder in respect of the costs mentioned in section 8(3)(a) of the Act, including details of—
 - (i) the insurance provider;
 - (ii) the policy holder;
 - (iii) the beneficiary of the policy;
 - (iv) any limitations on the insurer's liability.

3. The Regulator must take account of the following matters in deciding whether it is satisfied, for the purposes of section 8(2)(b) of the Act, that a Master Trust scheme has sufficient financial resources to meet the costs mentioned in section 8(3)(b) of the Act—

- (a) the extent and manner in which the trustees have made provision to meet those costs;
- (b) the amount and classes of assets held by, or available to, the trustees to meet those costs;

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- (c) the robustness and prudence of the estimates and strategy for meeting those costs in the scheme's business plan;
- (d) the amount of the scheme's assets under management or administration;
- (e) the number of members and participating employers in the scheme;
- (f) whether the scheme rules impose liability on any persons for the costs of winding up the scheme, and if so the identity of those liable;
- (g) the alignment between the actions in the scheme's continuity strategy and the estimated cost of taking those actions as identified in the business plan;
- (h) any requirement imposed by a financial regulator for any scheme funder to hold prudential margins of capital or otherwise to have made provision for its financial liabilities to the scheme;
- (i) any requirement imposed by a financial regulator for any service provider to hold prudential margins of capital or otherwise to have made provision for its financial liabilities to the scheme;
- (j) any insurance held by the scheme or the scheme funder in respect of the costs mentioned in section 8(3)(a) of the Act, including details of—
 - (i) the insurance provider;
 - (ii) the policy holder;
 - (iii) the beneficiary of the policy;
 - (iv) any limitations on the insurer's liability;
- (k) the quality of the scheme's records and data;
- (l) whether the scheme requires, and has received, the sanction of the court under Part 7 of Financial Services and Markets Act 2000(23) for any of its activities;
- (m) whether the members are eligible for compensation in the event of a scheme failure and, if so, details of—
 - (i) the compensation provider;
 - (ii) the basis on which the compensation is payable;
 - (iii) any limits on the amount of compensation payable.

4. The Regulator must take account of the following information in deciding whether it is satisfied about the matters mentioned in section 8(2) of the Act—

- (a) the scheme's business plan, including any supporting documents and information;
- (b) the scheme's accounts;
- (c) the statement of investment principles prepared by the trustees in accordance with Article 35(24) of the 1995 Order (investment principles);
- (d) each scheme funder's accounts and any financial information provided under regulation 8;
- (e) other relevant documents set out in a Code.

(23) 2000 c. 8

(24) Article 35 was substituted by Article 221 of the Pensions (Northern Ireland) Order 2005

PART 2

Requirements to be met by Master Trust schemes and scheme funders

5. A Master Trust scheme and each scheme funder must meet the following requirements in relation to the scheme's financing—

- (a) any assets held by the trustees or a scheme funder to meet the costs mentioned in section 8(3) of the Act must be—
 - (i) of the classes and in the proportions set out in a Code;
 - (ii) valued in accordance with any discounted rates set out in a Code, and
 - (iii) available to be used when the relevant cost falls due;
- (b) the scheme's trustees must have first call on the assets referred to in sub-paragraph (a);
- (c) any funding commitment made to the scheme by a scheme funder or an employer must be given in writing and duly executed by the party making the commitment;
- (d) where a scheme funder operates more than one Master Trust scheme, the funds allocated to each scheme must be separately identified to the Regulator;
- (e) where the assets include cash in a greater proportion than that set out in a Code, the Regulator may require trustees to hold a proportion of the assets set out in a Code in a separate account kept with a deposit taker as defined in Article 49(8A)(25) of the 1995 Order (other responsibilities of trustees, employers, etc.).

6.—(1) This paragraph applies in respect of a Master Trust scheme—

- (a) that was established before the commencement date;
- (b) that provides both money purchase benefits and non-money purchase benefits;
- (c) that has financial resources that are insufficient to meet the costs mentioned in section 8(3) of the Act, as estimated in the business plan, and
- (d) where employers are required to meet those costs.

(2) Where this paragraph applies, the amount by which the scheme's financial resources are less than the costs mentioned in section 8(3) of the Act, as estimated in the business plan ("the shortfall") must be guaranteed from the following sources—

- (a) as to no less than 25% of the shortfall, in the form of assets that are available to be used when the relevant cost falls due;
- (b) as to a proportion of the shortfall determined by the Regulator, in the form of a binding guarantee from the participating employers, and
- (c) as to a proportion of the shortfall determined by the Regulator, in the form of assets that are available for use within a period agreed by the Regulator.

(25) Paragraph (8A) was inserted by Article 154(5) of [S.I. 2001/3649](#) and amended by regulation 3 of [S.R. 2007 No. 457](#) and Article 4 of [S.I. 2013/472](#)

SCHEDULE 3

Regulation 7

THE BUSINESS PLAN

PART 1

Information to be included in the business plan

General

1. The effective date of the business plan.
2. The period to which the business plan relates, to be no less than 3 years and no more than 5 years starting with the effective date (the “plan period”).
3. In each case where this Schedule or a Code requires estimates to be provided in connection with the business plan—
 - (a) the assumptions used in reaching those estimates, and
 - (b) the circumstances in which, and the extent to which, the scheme’s actual costs, income and size may vary from the estimates.
4. The name of the person who prepared the business plan.
5. A statement, signed by the trustees, each scheme funder and, if different, the scheme strategist, confirming—
 - (a) that each scheme funder considers (or, in the absence of a scheme funder, the trustees consider) the business plan to give a true and fair representation of the matters to which it relates, and
 - (b) that the business plan, and any revisions to it, have been approved by the trustees, each scheme funder and, if different, the scheme strategist,

but this paragraph does not apply to scheme funders of schemes to which regulation 28(1) applies.

Information about the Master Trust scheme

6. The registered name of the scheme.
7. If different, any trading or brand name under which the scheme is promoted or marketed.
8. The date when the scheme was established.
9. The address of the scheme’s registered office.
10. The name of—
 - (a) each scheme trustee;
 - (b) each scheme funder (except where regulation 287(1) applies to the scheme), and
 - (c) each scheme strategist.
11. The name and address of any scheme administrator.
12. The number of participating employers.
13. The number of members, broken down into active members, deferred members and pensioner members.

14. The numbers of members joining, transferring from and leaving the scheme in the 3 years ending with the effective date.

15. The scheme's pension registry number.

16. The scheme's HM Revenue & Customs reference number.

Information about scheme funders

17. If a scheme funder has a single shareholder or is, in the Regulator's opinion, reliant on a single individual, details of the succession planning in the event that the shareholder or single individual ceases to be connected to the scheme funder.

18. Where section 10(3) of the Act (scheme funder requirements) applies to a scheme funder, a description of those of its activities which do not relate directly to the scheme.

19. Whether a scheme funder is regulated by a financial regulator other than the Regulator and, if so, the identity of that regulator.

Information about the scheme strategist

20. A declaration as to the overall competence of the scheme strategist, with particular reference to the scheme strategist's experience, knowledge, professional qualifications, and plans to improve that competence by way of continuous professional development or otherwise.

Information following a triggering event

21. Where a triggering event has reduced the value of the assets available to the scheme, the plans and timetable for restoring the scheme's assets to a level likely to satisfy the Regulator that the scheme is financially sustainable.

PART 2

Requirements relating to the business plan to be set out in a Code

22. Information to be provided by schemes which provide non-money purchase benefits.

23. The scheme's objectives and its strategy for meeting them.

24. Costs in relation to money purchase benefits.

25. Assets and liquidity in relation to costs.

26. Income in relation to money purchase benefits.

27. Profit and loss in relation to money purchase benefits.

SCHEDULE 4

Regulation 10

SYSTEMS AND PROCESSES REQUIREMENTS

Features and functionality of IT systems

1. Whether the IT systems have the capacity and capability—

Status: This is the original version (as it was originally made).

- (a) to process financial transactions securely and accurately, including the core transactions described in regulation 24(2)(26) of the Administration Regulations (requirements for processing financial transactions);
- (b) to make and receive electronic payments;
- (c) to accept contributions from multiple sources;
- (d) to exchange data with other IT systems, including those used by employers and service providers;
- (e) to reconcile data on transactions and produce reports so that those activities can be monitored and transaction errors rectified promptly;
- (f) to identify and categorise transactions and payments for authorisation and countersigning at an appropriate level of authority;
- (g) to be updated to reflect changes in the legal requirements affecting transactions, payments and records, including changes in tax thresholds, the annual allowance and the lifetime allowance.

Standards required of IT systems

- 2. Whether the IT systems—
 - (a) are of sufficient standard to allow the scheme to meet its objectives as set out in the business plan;
 - (b) are capable of being upgraded to reflect changes in required transactions and capacity;
 - (c) have restricted physical and electronic access, with firewalls and other appropriate protection against viruses and other threats;
 - (d) have a back-up system which allows data to be recovered if the main system fails.

Maintenance of IT systems

- 3. Whether the IT systems—
 - (a) are maintained at regular intervals, either automatically or by a person with the appropriate skills and experience;
 - (b) are backed up and updated regularly, including the maintenance of firewalls and other preventative systems;
 - (c) are monitored to ensure that their capacity is sufficient for the size of the scheme.

Member records

- 4. Whether the scheme's systems and processes ensure that—
 - (a) there is an accurate record of each member's details, including the contributions made in respect of each active member for each pay period, on the relevant IT system;
 - (b) any unpaid contribution in respect of active members can be explained to the Regulator and remedied;
 - (c) members' records are reviewed regularly for completeness and accuracy and updated promptly with changes of information;
 - (d) errors in members' records can be identified and addressed, and any financial impact of such errors on members can be rectified;

(26) Regulation 24 was added by regulation 18 of [S.R. 2015 No. 309](#)

- (e) records are maintained in respect of each member in decumulation for each financial year including—
 - (i) the method of decumulation;
 - (ii) the total amount withdrawn from the scheme and the amount taken as free from income tax, and
 - (iii) the amount of pension income received.

Trustees and others

- 5. Whether there are systems and processes—
 - (a) for the fair and transparent recruitment, appointment, resignation and removal of trustees;
 - (b) for determining and recording that persons involved in the scheme in the capacities listed in section 7(2) and (3) of the Act (fit and proper persons requirements) are, and remain, fit and proper;
 - (c) for monitoring and recording trustees' learning and development, and for ensuring that it is appropriate to the scheme's activities;
 - (d) in relation to meetings of trustees, including—
 - (i) the intervals at which meetings of trustees are to take place;
 - (ii) the number of trustees required to authorise decisions on risk management, resource planning and investments;
 - (iii) the process for managing the scheme's business between meetings of the trustees;
 - (e) for recording, maintaining and managing all documents relating to the trustees in an accessible, intelligible and durable medium;
 - (f) for managing the scheme's business if one or more trustees are absent.

Contracts and service providers

- 6. Whether there are systems and processes—
 - (a) for ensuring that trustees and the scheme strategist are properly informed about service providers, and appropriately involved in decisions about them;
 - (b) for establishing and recording that service providers are, and remain, fit and proper;
 - (c) for informing the trustees about the appointment, removal, roles and responsibilities of service providers;
 - (d) for informing the trustees of—
 - (i) any failure by service providers to deliver services;
 - (ii) any actions or omissions by service providers which may prejudice—
 - (aa) the effective running of the scheme, or
 - (bb) the ability to meet the objectives set out in the scheme's business plan;
 - (e) for recording, maintaining and managing all documents relating to service providers in an accessible, intelligible and durable medium.

Risk management

- 7. Whether there are systems and processes—

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- (a) for identifying, managing and monitoring operational, financial, regulatory and compliance risks;
- (b) for recording and documenting risks in an appropriate and durable format;
- (c) for ensuring that risks are managed in a timely manner by the appropriate persons;
- (d) for informing the trustees about risks that have arisen and the steps being taken to manage them.

Security

8. Whether there are systems and processes—
- (a) for preventing unauthorised access to sensitive records and infrastructure, including those containing member information, financial details or investment information;
 - (b) for monitoring and recording electronic and physical access to sensitive records and infrastructure;
 - (c) for ensuring the secure transfer of physical and electronic data and the secure conduct of transactions.

Resource planning

9. Whether there are systems and processes for ensuring that there are sufficient human resources with the skills, qualifications and capacity necessary to comply with the requirements of Part 1 of the Act and, in particular—
- (a) to run and maintain the scheme's systems and processes;
 - (b) to meet the objectives in the scheme's business plan, and
 - (c) to send appropriate and timely notifications, information and documents to the Regulator, including information about the scheme's systems and processes.

Investments

10. Whether there are systems and processes—
- (a) for investing contributions in a timely manner in accordance with members' instructions or, in the absence of instructions, with the scheme's default investment policy;
 - (b) for recording investment decisions and the associated instructions from members, or confirmation that a decision has been made without instructions;
 - (c) for managing the scheme's interaction with investment managers, and recording key decisions;
 - (d) for recording, managing and reviewing the risks associated with investment decisions;
 - (e) for informing trustees about questions, decisions and risks relating to investments;
 - (f) for ensuring that members receive timely and appropriate investment information and prompt replies to their enquiries and correspondence.

Member communication

11. Whether there are systems and processes—
- (a) for facilitating members' engagement with the scheme;
 - (b) for bringing members' views to the attention of the trustees;
 - (c) for directing members' complaints to the correct channels for resolution.

SCHEDULE 5

Regulation 20

CONTINUITY OPTION 1: TRANSFER OUT AND WINDING UP

Interpretation

1.—(1) In this Schedule—

“applicable scheme” means whichever of the employer default scheme or the trustee default scheme was included in the notice sent to members under paragraph 5;

“employer default scheme” means the alternative scheme nominated by an employer in accordance with paragraph 5(1)(b);

“receiving scheme” means the trustee default scheme, the employer default scheme or an alternative scheme to which member benefits are to be transferred;

“transfer date” means the date on which the accrued rights and benefits of members of the transferring scheme are transferred to a receiving scheme;

“transferring scheme” means the Master Trust scheme referred to in regulation 20;

“trustee default scheme” means the pension scheme identified by the trustees under section 24(1)(a) of the Act (continuity option 1: transfer out and winding up).

(2) Notices given under this Schedule must be sent—

(a) in writing, by post or by email;

(b) to the addressee’s last known address, and

(c) in accordance with any further requirements set out in a Code.

(3) For the purposes of sub-paragraph (2), a person’s email address is—

(a) any email address provided for the time being by that person as an address for contacting that person, or

(b) if no such address has been provided, any email address by means of which the sender reasonably believes that the notice will come to the attention of that person or (where that person is a body corporate) any director or other officer of that body corporate.

(4) A notice under this Schedule sent to a person by email is taken to have been received by that person 48 hours after it is sent.

(5) This Schedule overrides any provision of the Master Trust scheme to the extent that there is a conflict.

Calculation of cash equivalent

2.—(1) In this Schedule, a “cash equivalent” of any rights and benefits to which a member is entitled is the realisable value of those rights and benefits.

(2) A cash equivalent must be calculated—

(a) in accordance with these Regulations and with the rules of the scheme to which it relates;

(b) in a manner which is approved by the trustees;

(c) as an estimate as at the date when the employers are informed of the transfer date under paragraph 9, and

(d) as a final figure as at the transfer date.

(3) In calculating a cash equivalent, account must be taken of any surrender, commutation or forfeiture of the whole or part of a member’s pension.

Status: This is the original version (as it was originally made).

Trustees' powers

3.—(1) The trustees of a scheme that is pursuing continuity option 1 may, without members' consent, provide—

(a) for either—

(i) a member's accrued rights and benefits (including any transfer credits allowed under the scheme) to be transferred, or

(ii) a transfer payment in respect of a member's rights to be made,

to a trustee default scheme or an employer default scheme in accordance with this Schedule, with a view to acquiring transfer credits for the member under that scheme, or

(b) for arrangements to be made in accordance with paragraph 12 (trustees' power to transfer otherwise than to a scheme).

(2) A transfer payment made under sub-paragraph (1)(a)(ii) must be of an amount at least equal to the cash equivalent of the member's rights under the scheme, calculated in accordance with paragraph 2.

(3) The trustees of a scheme that is pursuing continuity option 1 may, where appropriate, decline a member's request for a drawdown pension (as defined in paragraph 4 of Schedule 28 to the Finance Act 2004⁽²⁷⁾) (drawdown pension) in the transferring scheme.

(4) A transfer, transfer payment or alternative arrangement under this paragraph is prescribed for the purposes of section 69(4)(b) of the Pension Schemes Act (form of short service benefit and its alternatives).

Trustees' first notice to employers and members

4.—(1) When the trustees have identified the trustee default scheme, they must send a notice to each participating employer, each member and the trustees of the trustee default scheme.

(2) A notice under this paragraph must be sent within the period of 14 days beginning with—

(a) the date on which the trustees identify the trustee default scheme, or

(b) if later, the date on which the Regulator notifies the trustees that the implementation strategy has been approved.

(3) A notice sent to a member under this paragraph must include information about—

(a) where the member can obtain guidance about the proposed transfer;

(b) the member's right to choose whether his or her accrued rights and benefits in the transferring scheme are transferred to—

(i) a scheme selected by the trustees or, where applicable, the member's employer, or

(ii) an alternative scheme selected by the member;

(c) the member's right to require the cash equivalent of his or her accrued rights and benefits to be used to buy one or more policies as set out in paragraph 7(1)(b), and

(d) the timetable for future communication with the member.

(4) A notice sent to an employer under this paragraph must include information about—

(a) the trustee default scheme, including its name;

(b) the expected date on which the transferring scheme will stop accepting contributions;

⁽²⁷⁾ 2004 c. 12; paragraph 4 was amended by paragraph 3 of Schedule 16 to the Finance Act 2011 (c. 11)

- (c) the employer's options for complying with its automatic enrolment duties when the transferring scheme has stopped accepting contributions;
- (d) where the employer can obtain guidance about the proposed transfer;
- (e) the employer's option to nominate an employer default scheme in respect of its workers who are active members of the transferring scheme;
- (f) the fact that if the employer does not nominate an employer default scheme, active members will be transferred to the trustee default scheme, and
- (g) the timetable for future communication with the employer.

(5) A notice sent to the trustees of the trustee default scheme under this paragraph must state that the trustee default scheme has been selected under section 24(1)(a) of the Act (continuity option 1: transfer out and winding up).

Employer's response to trustees

5.—(1) Each employer which receives a notice under paragraph 4 must give notice to the trustees of whether—

- (a) it accepts the choice of trustee default scheme in relation to members then employed by it, or
- (b) it opts to nominate an alternative scheme (the trustees of which are able and willing to accept the transfer) as the employer default scheme for those members, in which case it must state the name of that scheme and inform the trustees of that scheme that it has been so nominated.

(2) Each employer that has opted to nominate an alternative scheme as the employer default scheme must give notice of that nomination to those of its workers who are active members of the transferring scheme.

(3) A notice to trustees or workers under this paragraph must be sent within the period of 8 weeks beginning with the date when the employer received the notice under paragraph 4.

(4) If the trustees receive no notice from an employer under this paragraph, the employer is deemed to have accepted the trustee default scheme as the default scheme for members then employed by it.

Trustees' second notice to members

6.—(1) After the period allowed for employers to send notice to the trustees under paragraph 5, the trustees must send a second notice to each member of the transferring scheme.

(2) A notice under this paragraph must be sent within the period of 3 months beginning with the day on which the trustees sent notice to members and employers under paragraph 4.

(3) A notice under this paragraph must state—

- (a) the proposed transfer date;
- (b) if the member's employer has not nominated an employer default scheme—
 - (i) the fact that the member will be transferred to the trustee default scheme unless the member specifies otherwise, and
 - (ii) the name of, and information about—
 - (aa) the trustee default scheme, and
 - (bb) the default arrangement in that scheme;

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- (c) if the member’s employer has nominated an employer default scheme—
 - (i) the fact that the member will be transferred to the employer default scheme unless the member specifies otherwise, and
 - (ii) the name of, and information about—
 - (aa) the employer default scheme, and
 - (bb) the default arrangement in that scheme;
- (d) the member’s ability to obtain information about arrangements from the applicable scheme;
- (e) the fact that the member’s funds will be allocated to the default arrangement unless the member specifies otherwise;
- (f) where the member can obtain guidance about the proposed transfer;
- (g) the member’s right to choose whether the member’s accrued rights and benefits in the transferring scheme are transferred to—
 - (i) the applicable scheme, or
 - (ii) an alternative scheme selected by the member;
- (h) the requirement for a member who has selected an alternative scheme to send the trustees of the transferring scheme a notice that meets the requirements of paragraph 7(2);
- (i) the member’s rights under Part 4ZA(28) of the Pension Schemes Act (transfers and contribution refunds);
- (j) the member’s right to require the cash equivalent of the member’s accrued rights and benefits to be used to buy one or more policies as set out in paragraph 7(1)(b);
- (k) the consequences for the member of his or her choice of receiving scheme, with particular reference to its effect on payment of contributions by the member’s employer;
- (l) the timetable for future communication with members.

Member’s response to trustees

7.—(1) A member who has received notice from the trustees under paragraph 6 may give notice to the trustees requiring them—

- (a) to transfer the member’s accrued rights and benefits in the transferring scheme to—
 - (i) the applicable scheme, or
 - (ii) an alternative scheme selected by the member, the trustees of which are able and willing to accept the transfer, or
 - (b) to use the cash equivalent of the member’s accrued rights and benefits to purchase one or more policies from one or more insurers authorised by the Financial Conduct Authority(29) for carrying on long-term insurance business in the United Kingdom.
- (2) A notice under this paragraph—
- (a) must be sent within the period of 3 months beginning with the day when the member received notice from the trustees under paragraph 6 (“the option period”), and
 - (b) must contain sufficient information about the alternative scheme referred to in sub-paragraph (1)(a)(ii) or the destination of the cash equivalent referred to in sub-

(28) See paragraph 50 of Schedule 4 to the Pension Schemes Act 2015

(29) The Financial Conduct Authority is described in section 1A of the Financial Services and Markets Act 2000, as substituted by section 6(1) of the Financial Services Act 2012 (c. 21); Part 3 of the Financial Services and Markets Act 2000 contains provisions on authorisation

paragraph (1)(b), including bank account details, necessary for the trustees to comply with paragraph 8(1).

- (3) An alternative scheme selected by the member must be—
- (a) a Master Trust scheme authorised under the Act, or
 - (b) a personal pension scheme as defined in section 1 of the Pension Schemes Act (categories of pension schemes).

Trustees' duty to transfer

- 8.—(1) If the trustees receive notice from a member in accordance with paragraph 7, they must—
- (a) arrange for the member's accrued rights and benefits to be transferred, or the member's cash equivalent applied, as specified in the notice;
 - (b) notify the member of the value of the cash equivalent of his or her accrued rights if the member is not yet receiving benefits under the transferring scheme, and
 - (c) notify the member of the value of his or her remaining benefits if the member is receiving benefits under the transferring scheme.
- (2) If the trustees do not receive notice from a member under paragraph 7, the member's accrued rights and benefits must be transferred to the applicable scheme.
- (3) Any transfer of a member's rights and benefits, and any application of a member's cash equivalent, under this paragraph must be made within the period of 3 months beginning with the end of the option period referred to in paragraph 7(2)(a).

Notice of expected transfer date

9. Not less than one month before the expected transfer date, the trustees must notify each participating employer of the expected transfer date.

Transfer requirements: choice of arrangements

- 10.—(1) The trustees of the applicable scheme must, as soon as reasonably practicable, contact each member whose accrued rights or benefits are to be transferred to that scheme and must invite them to select an arrangement of the applicable scheme into which those rights or benefits are to be transferred.
- (2) The accrued rights of members who do not respond to the applicable scheme within 8 weeks after the date on which they received the invitation referred to in sub-paragraph (1) must remain in an arrangement which—
- (a) meets the conditions for use as the default arrangement of the applicable scheme, and
 - (b) complies with Chapter 1(30) (default arrangements, non-contributing members and payments to advisers) of Part 2 (restrictions on charges) of the Charges and Governance Regulations.

Requirements to be met by default schemes

11. The trustee default scheme and any employer default scheme must each be—
- (a) a Master Trust scheme authorised under the Act, and

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- (b) an automatic enrolment scheme in relation to the members being transferred, as defined in section 17 of the Pensions (No. 2) Act (automatic enrolment schemes), or a scheme which would be an automatic enrolment scheme if the members being transferred were jobholders as defined in section 16(1) of that Act.

Trustees' power to transfer otherwise than to a scheme

12.—(1) Where the trustees cannot identify a scheme which they consider appropriate for use as a default scheme in respect of a member of the transferring scheme, the trustees may make arrangements to transfer that member's accrued rights and benefits to a vehicle which will secure suitable benefits for the member that are comparable to those in the transferring scheme.

(2) Before making arrangements under sub-paragraph (1), the trustees must notify the members to whom the arrangements relate of their intention to do so.

(3) The arrangements permitted by sub-paragraph (1) are the purchase of one or more policies from one or more insurers authorised by the Financial Conduct Authority for carrying on long-term insurance business in the United Kingdom.

(4) A transfer under sub-paragraph (1) is prescribed for the purposes of section 69(4)(b) of the Pension Schemes Act (form of short service benefit and its alternatives).

Administration charges

13.—(1) For the purposes of section 24(5)(i) of the Act (continuity option 1: transfer out and winding up), the trustees of an applicable scheme must provide to the Regulator a document setting out the administration charges in accordance with the following provisions.

(2) The document must be provided within the period of 28 days beginning with—

- (a) in the case of the trustee default scheme, the date on which the trustees received notice from the trustees of the transferring scheme under paragraph 4(1), or
- (b) in the case of an employer default scheme, the date on which the trustees received notice from the employer under paragraph 5(1)(b).

(3) The document must set out all levels of administration charges for each charge structure, including any discounted levels—

- (a) for each arrangement, including a default arrangement, and any different levels in relation to any one arrangement;
- (b) for any additional charges, including the reason for imposing them;
- (c) for any third-party charges, including the reason for imposing them, and
- (d) for any other type of administration charge in the scheme, including the reason for imposing it.

(4) The charges must be set out as at the most recent date, not falling within a triggering event period in relation to the transferring scheme, on which the applicable scheme submitted a continuity strategy to the Regulator.

(5) The levels must be set out on an annualised basis.

(6) Where there is a discounted level, the reason for charging the lower level must also be set out.

(7) The document must include a statement explaining—

- (a) how the applicable scheme has complied with section 33(2) of the Act (prohibition on increasing charges during triggering event period);

- (b) whether the applicable scheme is liable for the costs mentioned in section 33(3) of the Act, and
- (c) if the applicable scheme is liable for those costs, how it is to meet them.

Future contributions

14. The trustees of a scheme that is pursuing continuity option 1 may—
- (a) arrange for the future contributions of employers and active members to be paid to the trustee default scheme from a date to be decided by the trustees, and
 - (b) arrange for any contributions received from employers and active members after the date referred to in sub-paragraph (a) to be forwarded to the trustees of the applicable scheme.

Cessation of accruals

15.—(1) On the transfer date, the trustees of the transferring scheme are discharged from any obligation to receive contributions from members or maintain arrangements for the accrual of rights to benefits in respect of them.

(2) When the accrued rights and benefits of members of the transferring scheme have been transferred to a receiving scheme, the trustees of the transferring scheme are discharged from any obligation to provide benefits to those members.

(3) This paragraph does not apply in respect of members who are transferring out of the scheme in accordance with Part 4ZA of the Pension Schemes Act (transfers and contribution refunds).

Winding up

16. The Regulator may direct the trustees of the transferring scheme to wind up the scheme where continuity option 1 is being pursued.

Regulator's power to direct

17. The trustees of a Master Trust scheme must comply with a direction issued by the Regulator requiring them to do anything permitted or required by this Schedule.

Civil penalties

18. Article 10 of the 1995 Order (civil penalties) applies to a person who fails to comply with a requirement imposed by this Schedule, including where the requirement is contained in a direction made under it.